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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12
13 SAN JOSE DIVISION

14
15 UNITED STATES OF AMERICA,) No. CR 10-00625-JF
16 vs. Plaintiff,) STIPULATION AND {PROPOSED}
17 JUAN CARLOS CRUZ BOTELLO,) ORDER ADVANCING THE SENTENCING
18 Defendants.) HEARING DATE
19 _____)

20
21 STIPULATION

22 The parties, by and through their respective counsel, hereby stipulate and jointly request
23 that the sentencing hearing date currently set in this matter for Thursday, October 20, 2011, at
24 9:00 a.m., be advanced to Thursday, September 22, 2011, at 9:00 a.m.

25 On June 16, 2011, Mr. Cruz-Botello entered a change of plea pursuant to a Fed. R. Crim.
26 P. 11(c)(1)(C) agreement providing for a sentence of 60 months, and the matter was referred to
United States Probation to prepare a Presentence Report to determine, inter alia, Mr. Cruz-
Botello's safety-valve eligibility. The current October 20, 2011, sentencing date will require this
matter to be reassigned to another Judge of this Court due to the Honorable Jeremy Fogel's

1 departure. The parties seek to advance that sentencing hearing, in the interest of efficiency and
2 judicial economy, and to permit the Honorable Jeremy Fogel, who is familiar with the procedural
3 history and issues relevant to sentencing to resolve this matter prior to his Honor's departure.

4 The parties have consulted with Untied States Probation Officer Karen Mar, who is
5 assigned to prepare the presentence report in this matter. Officer Mar has advised that she has no
6 objection to advancing the sentencing hearing date to September 22, 2011, provided that the
7 parties agree to waive the draft report. The parties therefore further stipulate and agree to waive
8 the draft presentence report and will submit any objections to the presentence report by way of
9 memorandum at sentencing.

10 Accordingly, the parties respectfully request that the Court advance the defendant's
11 sentencing hearing date from October 20, 2011, at 9:00 a.m. to September 22, 2011, at 9:00 a.m.

12 IT IS SO STIPULATED

13 Dated: August 11, 2011

14 _____/s/_____
15 ALLISON MARSTON DANNER
16 Assistant United States Attorney

17 Dated: August 11, 2011

18 _____/s/_____
19 VARELL L. FULLER
20 Assistant Federal Public Defender

21
22 **[PROPOSED] ORDER**

23 GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
24 ORDERED that the sentencing hearing set for Thursday, October 20, 2011, is advanced to
25 Thursday, September 22, 2011, at 9:00 a.m.
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Stipulation and [Proposed] Order
CR 10-00625 JF

1 IT IS FURTHER ORDERED, that the date by which United States Probation must
2 disclose the draft presentence report in this matter is hereby waived.

3 IT IS SO ORDERED.

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5 Dated: 8/18/11


6 THE HONORABLE JEREMY FOGEL
7 United States District Court

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